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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/618,369

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Steven McCanne

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04/14/2010

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EXAMINER

CLOUD, JOIYA M

ART UNIT

PAPER NUMBER

2444

MAIL DATE

DELIVERY MODE

04/14/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/618,369

**Applicant(s)**

MCCANNE ET AL.

**Examiner**

Joiya M. Cloud

**Art Unit**

2444

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16, 18-24, 26 and 28-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16, 18-24, 26 and 28-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date 11/30/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

This action is responsive to the communication filed 01/08/2010. Claims 16, 18-24, 26 and 28-39 are pending. Applicant's arguments are moot in view of new ground(s) of rejection, necessitated by Applicant's substantial amendments (i.e. wherein each entry comprises data to be transmitted from a rendezvous point of the multicast group to members of the multicast group," which have affected the scope thereof.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 is drawn towards "An apparatus for processing data...a data store that stores...one or more processors comprising one or more sequences of instruction...to perform: *logic that disseminates...*" The claim is unclear as to how logic is performed. The instant claim should be amended to execute logic (i.e. to perform a series of steps or method).

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 16 and 36** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Exemplary claim 16 is drawn towards "An apparatus for processing data...a data store that stores...one or more processors comprising one or more sequences of instruction...to perform logic that disseminates..." Examiner submits that the instant claim language (i.e. "an apparatus" and "one or more processors") appear to be software processors/agents (i.e. software to process something) in view of page 2, lines 31-page 3, line 8 of the instant specification. Software per se is held to be non-statutory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 16, 18-24, 26 and 28-39** are rejected under 35 U.S.C. 102(e) as being anticipated by **Badovinatz et al (U.S. Patent No. 5,793,962)**.

**As per claim 16**, Badovinatz discloses the invention substantially as claimed.

Badovinatz discloses an apparatus for processing data at a node in a data network, wherein the data network connects a plurality of nodes and at least a portion of the plurality of the nodes form a multicast group apparatus comprising: a data store that stores a plurality of entries associated with the multicast group (**col. 6, lines 19-22, membership list stored in the memory of the processing nodes**), wherein each entry comprises data to be transmitted from a rendezvous point of the multicast group to members of the multicast group (**col. 6, lines 19-28, where the rendezvous point is the group leader node**); logic that disseminates the plurality of entries to members of the multicast group (**col. 6, lines 19-60, col. 7, lines 5-11 and 40-53**); logic that receives, from a node that is not a member of the multicast group, a request to run a query against the entries stored in the data store, wherein the query specifies matching criteria; logic that runs the query against the entries in the data store (**col. 5, lines 63-col. 6, lines 9**); logic that indicates that the apparatus has been designated as the rendezvous node in the multicast group, wherein designation as the rendezvous node indicates that the apparatus is to disseminate the plurality of entries to members of the multicast group (**col. 5, lines 39-55**); and logic that disseminates one or more entries that satisfy the matching criteria to the node that is not a member of the multicast group (**col.6, lines 25-28 and col. 8, lines 29-45, where the member to join receives the membership list**).

**As per claim 18**, Badovinatz teaches apparatus further comprising logic that adds a first entry to the plurality of entries in the data store in response to a request from a first node to add the first entry (**col. 7, lines 38-53**).

**As per claim 19**, Badovinatz teaches an apparatus wherein the logic that adds a first entry to the plurality of entries further automatically disseminates the first entry to the plurality of the nodes that form the multicast group in response to the request from the first node to add the first entry to the plurality of entries (**col. 13, lines 25-31**).

**As per claim 20**, Badovinatz teaches an apparatus further comprising logic that deletes a first entry of the plurality of entries in the data store in response to a request from a first node to relinquish the first entry (**col. 14, lines 38-45**).

**As per claim 21**, Badovinatz teaches an apparatus further comprising logic indicates, to the plurality of the nodes that form the multicast group, that the first entry has been relinquished, wherein the indication is in response to the request from the first node to relinquish the first entry (**col. 14, lines 28-45**).

**As per claim 22**, Badovinatz teaches an apparatus wherein the source that published the entry is not a member of the multicast group (**col. 6, lines 19-28, joining member**).

**As per claim 23**, Badovinatz teaches an apparatus wherein the source that published the entry is a member of the multicast group (**col. 7, lines 41-53**).

**As per claim 24**, Badovinatz teaches an apparatus wherein each entry is associated with a priority that specifies its delivery priority relative to other entries (**col. 5, lines 56-62**).

**As per claim 26**, claim 26 is substantially the same as claim 1 and is thus rejected using similar rationale.

**As per claim 28-34**, claims 28-35 lists all the same elements of claims 18-24, but in method form rather than apparatus form. Therefore, the supporting rationale of the rejection to claims 18-24 applies equally as well to claims 28-35. Furthermore regarding, asynchronously notifying the particular node of a modification to a first entry; wherein the asynchronously notifying the particular node is performed in response to the source that published the first entry modifying the first entry (**col. 7, lines 45-53**).

**As per claim 36**, claim 36 is substantially the same as claim 1 and is thus rejected for reasons similar to those in rejecting claim 1.

**As per claims 37-39**, Badovinatz teaches wherein the plurality of entries to members of the multicast group comprises updates to data stores associated with nodes that are not members of the multicast group.

### ***CONCLUSION***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

*JMC*